1952. File No. O/Mohammedan/52
Law
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G BRANCH

Subject:— Opinion on the Mohammedan Law

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Office of the R.L.A.

The following two questions are referred to the R.L.A. for opinion:-

(1) who are the legal heirs of the deceased licensee; and

(2) if the son of the divorced wife is also legal heir along with the widow and her children, then in whose name the license should be continued.

As the deceased licensee was a sunni, his widow as a sharer would be entitled to inherit 1/8th of his property and his 3 sons (including the one from the divorced wife) and one daughter would be entitled as residuaries to inherit ¼, ¼, ¼ and 1/8th each respectively of the residue of 7/8th of the property, (Secs. 63 and 65 of Mulla's Mahommedan Law, edn. 13th). The date of divorce is not known but on the presumption that the divorce has already become irrevocable, the right of inheritance of divorced wife has ceased.

In this case it is not known whether the deceased has left a will but the deceased licensee seems to have died intestate in view of the fact that none of the parties have referred to any Will. No legal guardian as mentioned in section 359 of Mulla's Mahommedan Law is available in this case and either the mother or the uncle can be considered to be the defacto guardian of the minor children under section 361. If the licence is transferred in the name of the widow, objection is likely to be raised on behalf of the minor son of the divorced wife. The licence may therefore be continued in the name of the Jais Md. the brother of the deceased licensee pending settlement of the shares of the parties concerned. The widow has also expressed her desire that the licence should be continued in Jais Mahomed's name as katta and guardian.

Sd/- P.M.LAD.
4/3.

Remembrancer of Legal Affairs.

SNT/17.7. U.O. to C.S.D.No.C-100, dated the 4th March 1952.